

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1027 be amended to read as follows:

- 1 Page 6, line 41, delete "(m)".
- 2 Page 6, line 41, strike "Except as otherwise provided in this section,
- 3 no employer".
- 4 Page 6, strike line 42.
- 5 Page 7, strike lines 1 through 2.
- 6 Page 7, line 3, strike "one-half (1.5) times the regular rate at which".
- 7 Page 7, line 3, delete "the employee".
- 8 Page 7, line 3, strike "is".
- 9 Page 7, strike line 4.
- 10 Page 7, line 5, delete "(n)".
- 11 Page 7, line 5, strike "For purposes of this section the following
- 12 apply:".
- 13 Page 7, strike line 6.
- 14 Page 7, line 7, strike "by subsection".
- 15 Page 7, line 7, delete "(m)".
- 16 Page 7, strike lines 8 through 25.
- 17 Page 7, line 26, strike "incurred by an employee in the furtherance
- 18 of".
- 19 Page 7, line 26, after "his" delete "the".
- 20 Page 7, strike lines 27 through 28.
- 21 Page 7, line 29, strike "are not made as compensation for".
- 22 Page 7, line 29, delete " the employee's".
- 23 Page 7, line 29, strike "hours of".
- 24 Page 7, strike lines 30 through 42.

- 1 Page 8, strike lines 1 through 12.
- 2 Page 8, line 13, strike "applicable to the employee under
- 3 subsection".
- 4 Page 8, line 13, delete "(m)".
- 5 Page 8, line 13, strike "or in".
- 6 Page 8, strike lines 14 through 26.
- 7 Page 8, line 27, strike "exceeding eight".
- 8 Page 8, line 27, delete "(8)".
- 9 Page 8, line 27, strike "hours) or work week (not exceeding the".
- 10 Page 8, strike line 28.
- 11 Page 8, line 29, strike "subsection".
- 12 Page 8, line 29, delete "(m))".
- 13 Page 8, line 29, strike "where the premium rate is not less than".
- 14 Page 8, strike lines 30 through 32.
- 15 Page 8, line 33, delete "(o)".
- 16 Page 8, line 33, strike "No employer shall be considered to have
- 17 violated subsection".
- 18 Page 8, line 34, delete "(m)".
- 19 Page 8, line 34, strike "by employing any employee for a work week
- 20 in excess of that".
- 21 Page 8, line 35, strike "specified in subsection".
- 22 Page 8, line 35, delete "(m)".
- 23 Page 8, line 35, strike "without paying the compensation for".
- 24 Page 8, strike lines 36 through 42.
- 25 Page 9, strike lines 1 through 14.
- 26 Page 9, line 15, strike "applicable to the employee under
- 27 subsection".
- 28 Page 9, line 15, delete "(m)".
- 29 Page 9, line 15, strike "or two".
- 30 Page 9, strike lines 16 through 18.
- 31 Page 9, line 19, delete "(p)".
- 32 Page 9, line 19, strike "No employer shall be considered to have
- 33 violated subsection".
- 34 Page 9, line 20, delete "(m)".
- 35 Page 9, line 20, strike "by employing any employee for a work week
- 36 in excess of the".
- 37 Page 9, line 21, strike "maximum work week applicable to the
- 38 employee under subsection".
- 39 Page 9, line 22, delete "(m)".
- 40 Page 9, line 22, strike "if the employee is employed pursuant to a
- 41 bona fide individual".
- 42 Page 9, strike lines 23 through 27.
- 43 Page 9, line 28, strike "hourly rate provided in subsections (c),".
- 44 Page 9, line 28, delete "(h),".
- 45 Page 9, line 28, strike "(i),".
- 46 Page 9, line 28, delete "(j),".

- 1 Page 9, line 29, delete "and (l)".
- 2 Page 9, line 29, strike "(whichever is applicable) and compensation
- 3 at not less".
- 4 Page 9, strike lines 30 through 31.
- 5 Page 9, line 32, strike "(2) Provides a weekly guaranty of pay for not
- 6 more than sixty".
- 7 Page 9, line 32, delete "(60)".
- 8 Page 9, strike line 33.
- 9 Page 9, line 34, delete "(q)".
- 10 Page 9, line 34, strike "No employer shall be considered to have
- 11 violated subsection".
- 12 Page 9, line 35, delete "(m)".
- 13 Page 9, line 35, strike "by employing any employee for a work week
- 14 in excess of the".
- 15 Page 9, strike lines 36 through 38.
- 16 Page 9, line 39, strike "amount paid to the employee for the number
- 17 of hours worked by".
- 18 Page 9, line 40, delete "the employee".
- 19 Page 9, line 40, strike "in the work week in excess of the maximum
- 20 work week".
- 21 Page 9, strike lines 41 through 42.
- 22 Page 10, strike lines 1 through 20.
- 23 Page 10, line 21, delete "(r)".
- 24 Page 10, line 21, strike "Extra compensation paid as described in
- 25 this section shall be".
- 26 Page 10, strike lines 22 through 23.
- 27 Page 10, line 24, delete "(s)".
- 28 Page 10, line 24, strike "No employer shall be considered to have
- 29 violated subsection".
- 30 Page 10, line 25, delete "(m)".
- 31 Page 10, line 25, strike "by employing any employee of a retail or
- 32 service establishment".
- 33 Page 10, strike lines 26 through 38.
- 34 Page 10, line 39, delete "(t)".
- 35 Page 10, line 39, strike "No employer engaged in the operation of
- 36 a hospital or an".
- 37 Page 10, strike lines 40 through 41.
- 38 Page 10, line 42, strike "premises shall be considered to have
- 39 violated subsection".
- 40 Page 10, line 42, delete "(m)".
- 41 Page 10, line 42, strike "if,".
- 42 Page 11, strike lines 1 through 4.
- 43 Page 11, line 5, strike "computation and if, for".
- 44 Page 11, line 5, delete "the employee's".
- 45 Page 11, line 5, strike "employment in excess of".
- 46 Page 11, strike lines 6 through 9.

- 1 Page 11, line 10, delete "(u)".
- 2 Page 11, line 10, strike "No employer shall employ any employee in
- 3 domestic service".
- 4 Page 11, strike lines 11 through 12.
- 5 Page 11, line 13, strike "in accordance with subsection".
- 6 Page 11, line 13, delete "(m)".
- 7 Page 11, line 14, delete "(v)".
- 8 Page 11, line 14, strike "In the case of an employee of an employer
- 9 engaged in the".
- 10 Page 11, line 15, strike "business of operating a street,".
- 11 Page 11, line 15, after "street," delete "a".
- 12 Page 11, line 15, strike "suburban or interurban electric railway,".
- 13 Page 11, line 16, before "a local" strike "or".
- 14 Page 11, line 16, delete "a".
- 15 Page 11, line 16, strike "local trolley or motorbus carrier (regardless
- 16 of whether or not the"
- 17 Page 11, strike lines 17 through 18.
- 18 Page 11, line 19, strike "to which the rate prescribed by subsection".
- 19 Page 11, line 19, delete "(m)".
- 20 Page 11, line 19, strike "applies, there shall".
- 21 Page 11, strike lines 20 through 26.
- 22 Page 11, line 27, delete "(w)".
- 23 Page 11, line 27, strike "Any employer may employ any employee
- 24 for a period or".
- 25 Page 11, strike line 28.
- 26 Page 11, line 29, strike "week in excess of the maximum work week
- 27 specified in subsection".
- 28 Page 11, line 30, delete "(m)".
- 29 Page 11, line 30, strike "without paying the compensation for
- 30 overtime employment".
- 31 Page 11, line 31, strike "prescribed in subsection".
- 32 Page 11, line 31, delete "(m)",.
- 33 Page 11, line 31, strike "if during that period or periods the".
- 34 Page 11, strike lines 32 through 37.
- 35 Page 11, line 38, delete "(x)".
- 36 Page 11, line 38, strike "Subsection".
- 37 Page 11, line 38, delete "(m)".
- 38 Page 11, line 38, strike "does not apply to an employee of a motion".
- 39 Page 11, strike line 39.
- 40 Page 11, line 40, delete "(y)".
- 41 Page 11, line 40, strike "Subsection".
- 42 Page 11, line 40, delete "(m)".
- 43 Page 11, line 40, strike "does not apply to an employee of a".
- 44 Page 11, strike lines 41 through 42.
- 45 Page 12, strike lines 1 through 2.
- 46 Page 12, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 5. IC 35-50-5-3, AS AMENDED BY P.L.173-2006, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Except as provided in subsection (i) or (j), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of:

- (1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);
- (2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;
- (3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;
- (4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the investigation or trial of the crime; and
- (5) funeral, burial, or cremation costs incurred by the family or estate of a homicide victim as a result of the crime.

(b) A restitution order under subsection (a), or (i), or (j) is a judgment lien that:

- (1) attaches to the property of the person subject to the order;
- (2) may be perfected;
- (3) may be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and
- (4) expires;

in the same manner as a judgment lien created in a civil proceeding.

(c) When a restitution order is issued under subsection (a), the issuing court may order the person to pay the restitution, or part of the restitution, directly to:

- (1) the victim services division of the Indiana criminal justice institute in an amount not exceeding:
  - (A) the amount of the award, if any, paid to the victim under IC 5-2-6.1; and
  - (B) the cost of the reimbursements, if any, for emergency services provided to the victim under IC 16-10-1.5 (before its repeal) or IC 16-21-8; or
- (2) a probation department that shall forward restitution or part of restitution to:
  - (A) a victim of a crime;
  - (B) a victim's estate; or

- 1 (C) the family of a victim who is deceased.  
 2 The victim services division of the Indiana criminal justice institute  
 3 shall deposit the restitution it receives under this subsection in the  
 4 violent crime victims compensation fund established by IC 5-2-6.1-40.
- 5 (d) When a restitution order is issued under subsection (a), (i), or (j),  
 6 the issuing court shall send a certified copy of the order to the clerk of  
 7 the circuit court in the county where the felony or misdemeanor charge  
 8 was filed. The restitution order must include the following information:
- 9 (1) The name and address of the person that is to receive the  
 10 restitution.  
 11 (2) The amount of restitution the person is to receive.
- 12 Upon receiving the order, the clerk shall enter and index the order in  
 13 the circuit court judgment docket in the manner prescribed by  
 14 IC 33-32-3-2. The clerk shall also notify the department of insurance  
 15 of an order of restitution under subsection (i).
- 16 (e) An order of restitution under subsection (a), (i), or (j), does not  
 17 bar a civil action for:
- 18 (1) damages that the court did not require the person to pay to the  
 19 victim under the restitution order but arise from an injury or  
 20 property damage that is the basis of restitution ordered by the  
 21 court; and  
 22 (2) other damages suffered by the victim.
- 23 (f) Regardless of whether restitution is required under subsection (a)  
 24 as a condition of probation or other sentence, the restitution order is not  
 25 discharged by the completion of any probationary period or other  
 26 sentence imposed for a felony or misdemeanor.
- 27 (g) A restitution order under subsection (a), (i), or (j), is not  
 28 discharged by the liquidation of a person's estate by a receiver under  
 29 IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6,  
 30 IC 34-1-12, or IC 34-2-7 before their repeal).
- 31 (h) The attorney general may pursue restitution ordered by the court  
 32 under subsections (a) and (c) on behalf of the victim services division  
 33 of the Indiana criminal justice institute established under IC 5-2-6-8.
- 34 (i) The court may order the person convicted of an offense under  
 35 IC 35-43-9 to make restitution to the victim of the crime. The court  
 36 shall base its restitution order upon a consideration of the amount of  
 37 money that the convicted person converted, misappropriated, or  
 38 received, or for which the convicted person conspired. The restitution  
 39 order issued for a violation of IC 35-43-9 must comply with  
 40 subsections (b), (d), (e), and (g), and is not discharged by the  
 41 completion of any probationary period or other sentence imposed for  
 42 a violation of IC 35-43-9.
- 43 (j) The court may order the person convicted of an offense under  
 44 IC 35-43-5-3.5 to make restitution to the victim of the crime, the  
 45 victim's estate, or the family of a victim who is deceased. The court  
 46 shall base its restitution order upon a consideration of the amount of

1 fraud or harm caused by the convicted person and any reasonable  
 2 expenses (including lost wages) incurred by the victim in correcting the  
 3 victim's credit report and addressing any other issues caused by the  
 4 commission of the offense under IC 35-43-5-3.5. If, after a person is  
 5 sentenced for an offense under IC 35-43-5-3.5, a victim, a victim's  
 6 estate, or the family of a victim discovers or incurs additional expenses  
 7 that result from the convicted person's commission of the offense under  
 8 IC 35-43-5-3.5, the court may issue one (1) or more restitution orders  
 9 to require the convicted person to make restitution, even if the court  
 10 issued a restitution order at the time of sentencing. For purposes of  
 11 entering a restitution order after sentencing, a court has continuing  
 12 jurisdiction over a person convicted of an offense under IC 35-43-5-3.5  
 13 for five (5) years after the date of sentencing. Each restitution order  
 14 issued for a violation of IC 35-43-5-3.5 must comply with subsections  
 15 (b), (d), (e), and (g), and is not discharged by the completion of any  
 16 probationary period or other sentence imposed for an offense under  
 17 IC 35-43-5-3.5.

18 (k) The court shall order a person convicted of an offense under  
 19 IC 35-42-3.5 to make restitution to the victim of the crime in an amount  
 20 equal to the greater of the following:

21 (1) The gross income or value to the person of the victim's labor  
 22 or services.

23 (2) The value of the victim's labor as guaranteed under: ~~the~~  
 24 ~~minimum wage and overtime provisions of:~~

25 (A) **the minimum wage and overtime provisions of the**  
 26 **federal Fair Labor Standards Act of 1938, as amended (29**  
 27 **U.S.C. 201-209); or**

28 (B) **the minimum wage provisions of IC 22-2-2 (Minimum**  
 29 **Wage);**

30 whichever is greater."

31 Renumber all SECTIONS consecutively.

(Reference is to HB 1027 as printed January 26, 2007.)

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Representative Thompson